

COPY

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1 IN THE CIRCUIT COURT

2 FOR

3 MONTGOMERY COUNTY, ALABAMA

4
5 THEODORE DAVIS,

6 Plaintiff,

7 Vs.

CIVIL ACTION NO.
CV-04-370

8 ARMSTRONG RELOCATION, LLN,
9 EDNA DUMAS, et al.,

10 Defendants.

11 * * * * *

12
13 DEPOSITION OF THEODORE DAVIS, taken
14 pursuant to stipulation and agreement before
15 Patricia G. Starkie, Registered Diplomate Reporter,
16 CRR, and Commissioner for the State of Alabama at
17 Large, in the Law Offices of Capell & Howard, 150
18 South Perry Street, Montgomery, Alabama, on
19 Tuesday, June 15, 2004, commencing at approximately
20 9:20 a.m.

21 * * * * *

22 VOLUME I

23 * * * * *

1 this first one here, up there at the top
2 where it says November 2002. Okay. I paid
3 for January through June. I paid \$3,000.
4 Okay. And then July through October, I
5 gave her two more thousand dollars.

6 Q. And do you have any idea why the \$1,500
7 appears on the --

8 A. It probably was what was not -- what I
9 hadn't caught up, probably, more than
10 likely. And so that was the remaining
11 amount that I probably owed her at that
12 time.

13 Q. Who filled out this receipt?

14 A. She did. She sent them to me in the mail.

15 Q. Is this her handwriting on both of those --

16 A. Yes.

17 Q. Let me finish the question. That's okay.
18 Everybody does that, so don't worry.

19 The two receipts that are contained on
20 Exhibit 8 are both in the handwriting of
21 Ms. Dumas? Is that what you're saying?

22 A. Yes, sir.

23 Q. What was your relationship with Ms. Dumas

1 in 1994?

2 A. We were close. We had just rekindled a
3 friendship, and we were -- we were close.
4 We were close at that time.

5 Q. How long had you known her before 1994?

6 A. Oh, I had known her for about 20 something
7 years before that, I guess. I met her when
8 we were younger.

9 Q. In 1994, where was she living?

10 A. In New Jersey.

11 Q. And where were you living?

12 A. In Montgomery.

13 Q. At the Rosedon --

14 A. No.

15 Q. -- address?

16 A. No, I was living on National Street,
17 National Avenue then. That's when she
18 suggested that she had a house, and she
19 suggested that I move into that house.
20 Asked me if I wanted to move into that
21 house, and I said, yeah. So we made an
22 agreement, and I did -- because at that
23 time, I had just come off of strike, wasn't

1 financially too established, and she knew
2 the situation and she was very nice at that
3 time. And she suggested that -- she said,
4 I need somebody to live in this house and I
5 want it to be kept up, so I'd rather have
6 someone live in it. So she said, so I'll
7 just -- you pay me \$200 a month and just
8 keep it up. And that's what I did.

9 Q. And you moved in sometime in 1994?

10 A. Uh-huh (positive response).

11 Q. To Rosedon?

12 A. Uh-huh (positive response).

13 Q. All right. Now, you mentioned at one time
14 you had a restaurant. Can you tell me the
15 name of that restaurant?

16 A. Wings and Things.

17 Q. Where was it located?

18 A. Well, I was -- at that time when I met her,
19 it was in Cloverland Shopping Center on --
20 what is this -- Court Street.

21 Q. And has it moved?

22 A. I closed up. I closed in '94.

23 Q. Okay. So you didn't own or operate a

1 Do you see the entry on Greyhound, ATU,
2 \$271 on --

3 A. That might have been a check -- ATU is my
4 union.

5 Q. Okay.

6 A. So that probably might have been a union
7 check of some kind.

8 Q. Would that have been a payment made to
9 Ms. Dumas for you?

10 A. No. She wouldn't have gotten any of my
11 money, so I don't really know what that --

12 Q. You just don't know?

13 A. She got all of my paperwork. Everything
14 that I had in the house she got.

15 Q. Okay.

16 A. And that was not -- But that was not
17 something that I had in there.

18 Q. Okay. How long did you and Ms. Dumas
19 maintain what you considered to be a close
20 relationship?

21 A. Up until this occurrence, we were very
22 close.

23 Q. Well, which -- I don't want to be too

1 personal, but were you living together
2 during the time she was down here?

3 A. When she came here?

4 Q. Yes.

5 A. Yes, she lived with me.

6 Q. And did you visit her in New York or New
7 Jersey?

8 A. And I lived with her in New Jersey.

9 Q. Did y'all ever discuss getting married or
10 anything like this?

11 A. It was never a discussion. We would always
12 say what we planned on doing with our lives
13 as we -- you know, after retirement, but --
14 and it was, I guess, a known that we would
15 probably be together, so that was the
16 extent of that. But we always just said to
17 each other what we wanted, and that was it.

18 Q. Did something happen in January of 2004 to
19 change that relationship?

20 A. Yes, sir.

21 Q. What was that?

22 A. Ms. Dumas appeared at the door one morning
23 about 8:30, nine o'clock, and she came with

1 I said, you know I'm buying this, and I'm
2 not going to be leaving here. I said, you
3 guys are going to go.

4 So she said, you're going to get out of
5 here. I have the deeds to this house. You
6 don't have any proof at all. And I said,
7 oh, yes, I do. I said, I know I've been
8 living here, I said, and you're not going
9 to put me out of here like this. I said,
10 what are you trying to do?

11 So the guys came in I guess as a
12 threat. And so I said, well, I'm going to
13 call the police. Well, you call the
14 police. The police can't do anything about
15 this because I've got my proof right here.

16 So I think at that time, I think I did
17 call the police. And so she told me I had
18 to get out. While he was on his way, they
19 were still telling me to get out of the
20 house. And I told them -- I said, I'm not
21 going anywhere, I said, and we'll
22 straighten this out. I said, you guys are
23 going to get out of here.

1 So the police came, and so we told the
2 police what was going on. And so she had
3 the deed, and she handed him the deed. And
4 so I told him, I said, yeah, but she has
5 the other paperwork, too, I said, because
6 I'm buying this from her. And she made --
7 he's not buying a damn thing from me. And
8 this is my house, I have the deeds, and I
9 have the right to put him out.

10 So I said, well, even if that were so,
11 you don't have the right to put me out. I
12 said, I don't have to go anywhere right
13 now. I said, you would have to go through
14 a procedure to put me out of here. I said,
15 but I don't want any trouble. I said, I've
16 got good neighbors. I don't even want them
17 to know what's going on. She said she
18 didn't give a damn about that; all she
19 wanted was my ass out.

20 So the nephew was in the background,
21 telling me I had to get out, and he was
22 threatening. So because of her and my
23 relationship, I didn't say a thing to him.

1 A. Yes, he does.

2 Q. What is that?

3 A. His phone number is (334) 288-8607.

4 Q. He came on over. Okay. Then what
5 happened?

6 A. So he was there when all of this went on.
7 And so the -- I got whatever I could get.
8 I didn't throw really anything -- I think I
9 threw one pair of trousers in there and got
10 a few papers that I thought -- Whatever was
11 on top of the dresser, I just pulled it off
12 and stuffed some things in a suitcase
13 and --

14 So I still told the policeman -- I
15 said, well, I don't think I need -- I have
16 to go. I said, I shouldn't have to go. I
17 said, you shouldn't be doing this to me.
18 He said, well, sir, you're going to go or
19 I'm going to put you in jail. Okay. So
20 they started laughing, and so -- I may be
21 missing something. But anyway, I told him,
22 okay, I think I'm ready to go.

23 And so he walked out with me. So he

1 told me, now, you know that if you come
2 back this way, we can arrest you for
3 trespassing for coming back here. He said,
4 you can't come back, so I said okay. He
5 said, you can't come back unless you call
6 up one of us and let us come back with you.

7 Q. All right.

8 A. I said okay. So I went on and went over to
9 Mr. Hardy's house and sat there and got
10 myself together.

11 And then I started thinking about
12 things I had left. And I had a safe in
13 there which had a lot of money in it,
14 because I was getting ready to try and get
15 another piece of land. And I also had some
16 money for Ms. Dumas because she was
17 supposed to have been coming down on about
18 the 14th, I think it was. She was going to
19 be coming the 14th of January. So I had
20 her some cash in the safe, and I also had
21 some for land. I had about 8,000 and
22 something dollars in the safe. It was in
23 the closet.

1 So I had medicines, too, that I had
2 forgotten. And I called her and asked if
3 it was okay for me to come back and get
4 the -- get my medicines. I didn't tell her
5 about the safe and the money because I
6 didn't want her doing anything with
7 anything in there. So she said, no, I'm
8 getting ready to leave. And so I said,
9 well, I still need to get in there and get
10 my medicine. She said, no, you can't come
11 back.

12 So I called the police department, told
13 them what I needed, and they said, okay,
14 Mr. Davis, we'll send someone over there
15 and meet them at the house. I said, no, I
16 prefer not to go to the house. They told
17 me that I shouldn't come back to the house,
18 and I'd rather meet them somewhere else.
19 He said, well, okay. Is there anywhere
20 around the corner or a neighbor's house or
21 something you can wait at until you see the
22 police and then go on behind them? I said,
23 yes, I'll do that.

1 A. Okay. And so they -- so I told the police
2 officer that usually the door is ajar.
3 Even though they changed the locks, if you
4 don't securely push the door, usually it's
5 ajar. So I said, so we can try that. He
6 said, okay.

7 We went back to the back, went through
8 the fence, and I pushed on the door and it
9 was ajar. I said, it's open. He stepped
10 up then and pushed the door open. And when
11 he pushed the door open, then they came
12 from all over, she and her nephew: MF,
13 what are you doing in here, get your
14 so-and-so's out of here. He said, I'm the
15 police. I don't give an MF if you are the
16 police. You get out of here. You're
17 not -- This is my property.

18 Q. Do you know his name?

19 A. The policeman?

20 Q. No. The nephew.

21 A. That's what I've been trying to find,
22 because he's -- he's going to be a part of
23 this, too.

1 Q. I didn't mean to interrupt. He's telling
2 the police officer get out.

3 A. Yeah. He's telling the police to get out,
4 and then he started telling me, you old
5 so-and-so with your old so-and-so, I'll do
6 this and I'll do that to you. I'll -- And
7 you get out of here and you don't supposed
8 to be in here.

9 And then the policeman was saying, sir,
10 calm down, be quiet. Said, I am the
11 police. I don't care who you are. He's
12 not supposed to be here. You're not
13 supposed to be in here. And so I said,
14 well, sir, I'm going to step back outside.
15 I stepped back out of the back door. He
16 said, ma'am, let me talk to you.

17 Five minutes, the policeman came out.
18 Sir, let me tell you -- let me talk to
19 you. You're not getting anything except
20 for your medicine. I said, sir, I've got
21 other things in there. All I want to do is
22 have you escort me through the house. Let
23 me get the things I need to get, and then

1 I'm going to leave.

2 She said, no, he's not going to bring
3 his so-and-so in here. The nephew yelled,
4 he's not coming in. So the policeman said,
5 no, you're not going in there. And I still
6 didn't tell them about the safe. I just,
7 you know -- And so they ran in, got my bag
8 full of medicine, ran out. She threw it to
9 the policeman. He brought it out to me and
10 told me, sir, that's all you're going to
11 get. You've got to leave.

12 And I said, well, sir, I said, I've
13 still got things in there. I need to talk
14 to you, sir. He put his hands up to my
15 face and said, be quiet, don't say anything
16 else. I said, but you don't understand.
17 He said, sir, be quiet. And I kept trying
18 to tell him, and he said, sir, be quiet.
19 You're not getting anything except for your
20 medicine. You've got to leave.

21 So here I am, sitting here watching
22 these guys, and I had plenty of food and
23 stuff in there. This nephew is eating and

1 drinking my food then at that time. So
2 they were watching movies, television,
3 because I had some film in there that they
4 had found, some x-rated film and stuff in
5 there.

6 And so I left. And I went around the
7 corner, hoping that the policeman would
8 come back the same way he came. And I was
9 waiting at the neighbor's house, trying to
10 wait for him to come back. So about 35, 40
11 minutes passed, still haven't seen him, so
12 I asked her if she would drive me back by
13 the house to see if he was still there.

14 Drove by. He was in the door. They
15 were standing, watching television,
16 watching movies. And so I slowed down --
17 we slowed down and went up the street.
18 Then we came back by and slowed down in
19 front of the house to make sure -- we were
20 watching. She was showing him movies on
21 television. So we went on and went to her
22 house, and then I left. I went to my
23 sister's house in Birmingham that night.

1 MR. BECK: I've got to take about
2 a two-minute break.

3 (Brief recess.)

4 Q. Mr. Davis, I'm going to show you some
5 photos, and I want you to tell me who's in
6 the picture, if you can, where the picture
7 was made and who took the picture. Okay?

8 (Defendant's Exhibits 23 through 72
9 were marked for identification.)

10 Q. Exhibit 23.

11 A. Okay. That's me. I guess that's about
12 '90 -- I don't know what, early '90's, late
13 90's, early '90's or something. I don't
14 know.

15 Q. Who is in the picture with you?

16 A. That's Ms. Lee.

17 Q. And where was that picture taken?

18 A. I don't remember.

19 Q. Turn that down. I'm going to show you
20 Exhibit 24. Who's in that picture?

21 A. That's Ms. Lee.

22 Q. And where was that taken?

23 A. I think that's her apartment in New York.

1 A. Yes.

2 Q. Okay. Who is in 72?

3 A. That's the same lady who I didn't recognize
4 before.

5 Q. But that was taken at Rosedon, I
6 understand?

7 A. Uh-huh (positive response.)

8 Q. And you said --

9 A. Oh, no, this was taken -- this was a hotel
10 room here.

11 Q. Okay. But she had visited you at Rosedon
12 as I recall?

13 A. No. This --

14 Q. That one had not?

15 A. This particular person -- see, I had a
16 couple other roommates and -- who had left
17 some things there and some -- See, if
18 Ms. Dumas had talked to me earlier, see --

19 MR. ROUNTREE: I just want to
20 know -- On the record, I'm
21 going to object to the form on
22 those as being irrelevant, but
23 go ahead. That's why I let

1 them -- let you go ahead and
2 ask about them.

3 THE WITNESS: Okay. But, still,
4 I'd like to say something
5 about them anyway.

6 A. Because, see, most of this is the reason
7 she was doing these things. If she had
8 talked to me, I could have told her what
9 they were.

10 Because a lot of that stuff I had told
11 her -- I told her -- I said, now, I did a
12 couple of things that I really felt bad
13 about. And I made an x-rated movie with a
14 friend of mine, and I had told her that I
15 did something that I really didn't feel
16 good about. It didn't last that long, but
17 it was something that still bothered me
18 very, very much.

19 And I had told Ms. Dumas that I had
20 done it. I didn't tell her what it was,
21 but that's what -- this is one of the
22 things that I did, making that film that I
23 made, and I really regret doing what I

1 did. And she talked to me.

2 Q. And who was in that film with you?

3 A. That was a friend of mine, Ms. Moss.

4 Q. And that was the wife of the person who
5 worked at Greyhound?

6 A. Right, uh-huh (positive response.)

7 Q. That rented with you at Rosedon for a
8 while?

9 A. Right. Yes.

10 Q. And what did you do with that movie?

11 A. She has all of that.

12 Q. Who is she?

13 A. Ms. Dumas.

14 Q. And so you believe that Ms. Dumas got angry
15 with you because of what she found out
16 about going on with you and these other
17 women?

18 A. Yes.

19 Q. Well, did she confront you with it before
20 January 18th?

21 A. The nephew had went back and told her that
22 I was dating from what I understand. I'm
23 not saying that I know this for sure. But

1 the police report on the telephone
2 conversation I had with the lady, when I
3 asked her to send the police to meet me, she
4 said meet them at the house, and I told her,
5 I said, no, I don't want to do that. I said
6 I'd rather wait somewhere else. And she
7 said -- and the lady on the phone said, okay,
8 well, can you wait at a neighbor's around the
9 corner? And I said, yes, I'll do that. And
10 I did. I waited up the street at a
11 neighbor's house until the police came by,
12 and then I went. The police parked in front
13 of the door and I parked behind it. And then
14 they saw me, Officer S. J. Watts.

15 Q. Now, Officer Watts --

16 A. Officer Watts was --

17 Q. -- was the officer who was with you --

18 A. When I went to the house.

19 Q. -- on the night --

20 A. On the night that this happened. On the
21 18th. That -- that was the same day that I
22 was evicted.

23 Q. All right, sir. Again, help me if you

1 didn't have how long I stayed in there.

2 MR. ROUNTREE: It's a very poor report.

3 Q. Prepared by Mr. Watts, I guess?

4 A. Maybe. I'm not sure, because -- no, sir, it
5 was not. It was -- because what happened was
6 I -- we never could find out who it was who
7 made the actual report and put -- had me put
8 in jail. We never found out who that was. I
9 don't know who it was. Because when I went
10 to try to get some help from the police
11 on -- on the 20th, I think it was -- let's
12 see. 18th, 19th. On the 20th, I went down
13 to a couple of lawyers and asked questions
14 about what I could do to get my belongings
15 out of the house. They said it was a civil
16 matter and it would be a lot of work. And so
17 they suggested that I go to the County. I
18 went to the County and I asked them. They
19 said they couldn't do anything because it was
20 a civil matter. I went to the police
21 department --

22 Q. Now, when you say you went to the County,
23 would that be the Sheriff's Department?

1 A. Yes, sir, uh-huh.

2 Q. I'm sorry.

3 A. I went to the police department then on
4 Ripley and I requested their help. And the
5 young lady stated that she could not do
6 anything for me, but that she had some sad
7 news for me; that I would be retained because
8 there was a warrant for my arrest for
9 criminal trespass.

10 Q. Is that first time that you learned that she
11 had sworn out a warrant for you?

12 A. Yes. Well, they had mentioned it the
13 night -- you know, when the police and I went
14 in that night before, they had mentioned it,
15 because he had told her that she had the
16 right to do it. But I didn't know whether
17 she would or not because she kept yelling,
18 I'll put you in jail, I will put you in jail;
19 but I didn't know that she, you know, would
20 go through with it.

21 Q. About how long did the incident with Officer
22 Watts -- how long did that take?

23 A. After we initially went into the back door

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1 know anything about. I had -- you know,
2 because I have other roommates who had lived
3 with me through the years. But the ones that
4 I did recognize were in my safe. And so I
5 know she had to have gone into my safe to get
6 those.

7 Q. When you went in with Officer Watts that
8 Sunday evening, did you see the safe?

9 A. I wasn't able to go in.

10 Q. Okay.

11 A. I was in the kitchen at the back door, and I
12 wasn't allowed to go in.

13 Q. Were the nephew and his two friends still
14 there Sunday evening?

15 A. The nephew -- I didn't see anybody but she
16 and the nephew. They were the ones who came
17 rushing in cursing the police and me out.
18 And so they were -- they were the only ones
19 that were there.

20 Q. That Sunday evening?

21 A. That Sunday evening.

22 Q. All right, sir. You stayed there about 15
23 minutes give or take?

1 needed to come back, call an officer and they
2 would probably send somebody to come back
3 with me if I needed to come back. But I had
4 to leave or he would put me in jail that
5 morning. Okay. And then I called Officer
6 Watts, and he -- after her -- hearing
7 Ms. Dumas and she had the deeds and all of
8 this, to the house, and then he told me that
9 I had no rights and that I had to leave and
10 that if I came back, that I would be
11 arrested.

12 Q. Can you describe Officer Watts for me?

13 A. He was a black officer also. I guess he
14 might have been about six-two, three -- I'm
15 not sure, really -- and about 200 or so
16 pounds.

17 Q. Did he say he had had any communication with
18 the officer from the morning?

19 A. No, sir.

20 Q. Do you think he had any knowledge of what had
21 taken place that morning?

22 A. I doubt it. I doubt it. I don't think they
23 did. Because that was early morning and this

1 to be that morning, because I stayed there
2 all day.

3 MR. ROUNTREE: 2:30.

4 THE WITNESS: I think it was 12
5 something, wasn't it?

6 MR. ROUNTREE: Yeah, 12:30. I'm sorry.

7 THE WITNESS: Yeah. Okay. Yeah.

8 Q. All right, sir. Let me show you what has now
9 been marked Defendant's Exhibit #77 and ask
10 you what that is, sir.

11 A. That's the arrest report. When I went down
12 to City Hall, they informed me that I was
13 going to be detained, and it was because of a
14 warrant that had been filed charging me with
15 criminal trespass.

16 Q. All right, sir. And about what time was
17 that?

18 A. About 12:30 p.m. on the 20th of January.

19 Q. All right, sir. So what happened then when
20 they said they were going to have to detain
21 you?

22 A. They -- I -- I had my cell phone with me, so
23 I called Mr. Hardy again, Tom Mr. Hardy again

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1 and informed him that they were going to put
2 me in jail.

3 Q. And that cell phone number is?

4 A. His -- his number. His number was 2 -- his
5 number was 288-6 -- 8607. 288-8607.

6 Q. Is that 334?

7 A. Yes, sir. And he -- that's his number. And
8 that's where I called for him to come and get
9 me. And that cell phone number that you have
10 there is the number I called from, this one
11 here.

12 Q. Would be area code 205?

13 A. Yes, sir.

14 Q. 790-3457?

15 A. Uh-huh.

16 Q. Which is the account at Verizon?

17 A. Mary Drake, uh-huh.

18 Q. And about what time did he arrive?

19 A. I'm assuming it took -- at least five or six
20 hours I was there.

21 Q. Did they -- where did they -- where were you?

22 A. I was in a holding cell. They took
23 fingerprints and pictures and all of this

1 stuff, I'll tell you. And it was
2 embarrassing.

3 Q. While you were there, did you see anyone that
4 you knew?

5 A. No, sir.

6 Q. Has anyone told you that they saw you there?

7 A. No, sir.

8 Q. And Mr. Hardy arrives and what happens then?

9 A. He paid the \$500 bail and then we had to wait
10 for a while until the paperwork, because he
11 said he had sat down there waiting for that
12 for a couple of hours waiting for them to go
13 through that procedure. And after that was
14 cleared, then they told me I -- they came and
15 got me and gave me my clothes and all of my
16 belongings and told me that I could go. And
17 so I left with him.

18 Q. And about what time was that?

19 A. It was late that afternoon. I don't remember
20 the time.

21 Q. Had it already gotten dark?

22 A. I don't remember whether it had or not.

23 Q. All right. Where did you go, sir?